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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2011-64**

11 **DAVID PAUL STILLMAN**
12 **400 S. Joanne Ave.**
13 **Ventura, CA 93003**
Registered Nurse License No. 523430

ACCUSATION

14 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

21 2. On or about July 10, 1996, the Board of Registered Nursing Registered Nurse License
22 Number 523430 to David Paul Stillman (Respondent). The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on August 31,
24 2011, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.
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5 STATUTORY PROVISIONS

6 4. Section 490 of the Code states:

7 "A board may suspend or revoke a license on the ground that the licensee has been
8 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
9 of the business or profession for which the license was issued. A conviction within the meaning
10 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
11 contendere."

12 5. Section 493 of the Code states:

13 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
14 the department pursuant to law to ... suspend or revoke a license or otherwise take disciplinary
15 action against a person who holds a license, upon the ground that the applicant or the licensee has
16 been convicted of a crime substantially related to the qualifications, functions, and duties of the
17 licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact
18 that the conviction occurred, but only of that fact, and the board may inquire into the
19 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
20 to determine if the conviction is substantially related to the qualifications, functions, and duties of
21 the licensee in question."

22 6. Section 2750 of the Code states:

23 "Every certificate holder or licensee ... may be disciplined as provided in this article
24 [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.).]"

25 7. Section 2761 of the Code states:

26 "The board may take disciplinary action against a ... licensed nurse ... for any of the
27 following:

28 (a) Unprofessional conduct, which includes, but is not limited to, the following:

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(d) Violating ... any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

...
(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

8. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...
(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

...
(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.”

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of Substantially Related Crimes)

3 9. Respondent is subject to disciplinary action under sections 490 and 2761,
4 subdivisions (a) and (f) in that Respondent has been convicted of crimes substantially related to
5 the qualifications, functions or duties of a registered nurse, as follows:

6 a. On or about April 18, 2008, Respondent was convicted after pleading nolo
7 contendere, to one misdemeanor count of Veh. Code section 23152, subdivision (b) [driving
8 while having .08% blood alcohol content or higher] in a criminal proceeding entitled *The People*
9 *of the State of California v. David Paul Stillman* (Super. Ct. Ventura County, 2008, No.
10 2008008199). The Respondent was sentenced to 3 years probation and 2 days of jail. The
11 Respondent was also ordered to complete a 90-day DUI First Offender's program and pay
12 \$1597.00 in fees.

13 b. The underlying factual circumstances occurred on February 27, 2008 at
14 approximately 3:55 p.m. when a Ventura Police officer responded to a traffic collision involving
15 the Respondent and a parked tow truck carrying Rudy P. ("driver") and Brenden M. ("customer").
16 The driver and customer, who are both witnesses with personal knowledge of the events in
17 question reported that the tow truck was parked and that they were sitting inside the cab while
18 waiting to lower the customer's vehicle from the truck bed when the Respondent collided with
19 them. The Respondent's vehicle continued westbound, out of control, until drifting to the right
20 side of the road, finally smashing into the curb line and going up onto the sidewalk. The driver
21 got out of the tow truck, inspected the damage and exchanged preliminary information with the
22 Respondent. At the time of the encounter, both driver and customer could detect the smell of
23 alcohol on the Respondent's breath. Moreover, the customer noticed that the Respondent appeared
24 to have "slow lethargic movements and manner of speech." The customer also saw an 18-pack of
25 beer in the backseat of the Respondent's vehicle based on a visual inspection.

26 c. Officers from the Ventura Police Department arrived at the scene and observed
27 that the Respondent's symptoms were consistent with someone under the influence of alcohol or
28 drugs. One officer gave the Respondent a Field Sobriety Test ("FST"), which Respondent failed in

1 several respects. In particular, Respondent often used his arms for balance and swayed while
2 attempting to balance himself for portions of the test. The officer administering the FST detected
3 heavy odor of alcohol on Respondent's breath and "thick, slurred speech." The officer also noticed
4 that the Respondent's eyes appeared "bloodshot/watery". The Respondent admitted he could feel
5 the effects of the alcohol "very much."

6 d. The Respondent also gave breath tests (PAS), administered by one of the
7 officers, once at 4:38 p.m. and again at 4:41 p.m., which revealed .15% and .17% blood alcohol
8 content, respectively. The Respondent was subsequently arrested and charged with violating
9 Veh. Code section 23152, subdivision (a) and subdivision (b). A search of the Respondent's
10 vehicle revealed an 18-pack of 12 oz. cans, with one can of beer missing. The officers noted that
11 the interior of the Respondent's vehicle had a "strong odor of beer". The officers also observed that
12 there was spilled liquid on the center console and the cup holder in the Respondent's vehicle,
13 which also smelled of beer. The Respondent admitted that he "had a couple of beers about 2 hrs."
14 prior to the accident.

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16 **SECOND CAUSE FOR DISCIPLINE**

17 (Dangerous Use of Alcohol)

18 10. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
19 2762, subdivision (b) in that on or about February 27, 2008, Respondent used alcoholic beverages
20 to an extent or in a manner dangerous or injurious to himself, and the public when he operated a
21 vehicle while having .08% and more by weight, of alcohol in his blood. Complainant refers to the
22 allegations in paragraph 9, subparagraphs (a) - (d), as if fully set forth herein.

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24 **THIRD CAUSE FOR DISCIPLINE**

25 (Conviction Involving the Consumption of Alcohol)

26 11. Respondent is subject to disciplinary action under sections 490 and 2762, subdivision
27 (c) in that on or about April 18, 2008, Respondent was convicted of a crime involving the
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1 consumption of alcohol. Complainant refers to the allegations in paragraph 9, subparagraphs
2 (a) - (d), as if fully set forth herein.

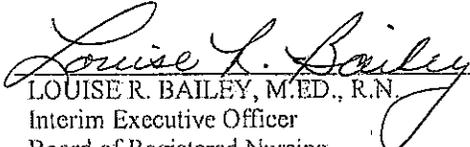
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 523430, issued to David Paul Stillman.
2. Ordering David Paul Stillman to pay the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/19/10


LOUISE R. BAILEY, M.ED., R.N.
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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